



Senate Bill No. 983

Public Act No. 15-144

**AN ACT CONCERNING THE INSURANCE DEPARTMENT'S
FINANCIAL REGULATORY OVERSIGHT OF INSURANCE
COMPANIES.**

Be it enacted by the Senate and House of Representatives in General Assembly convened:

Section 1. Subsection (e) of section 38a-14 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2015*):

(e) (1) Nothing contained in this section shall be construed to limit the commissioner's authority to terminate or suspend any examination in order to pursue legal or regulatory action pursuant to the insurance laws of this state. Findings of fact and conclusions made pursuant to any examination shall be prima facie evidence in any legal or regulatory action.

(2) Nothing contained in this section shall be construed to limit the commissioner's authority in such legal or regulatory action to use and, if appropriate, to make public any final or preliminary examination report, any examiner or company workpapers or other documents, or any other information discovered or developed during the course of any examination.

(3) Not later than sixty days following completion of the

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examination, the examiner in charge shall file, under oath, with the Insurance Department a verified written report of examination. Upon receipt of the verified report, the Insurance Department shall transmit the report to the entity examined, together with a notice that shall afford the entity examined a reasonable opportunity, not to exceed thirty days, to make a written submission or rebuttal with respect to any matters contained in the examination report. Not later than thirty days after the period allowed for the receipt of written submissions or rebuttals, the commissioner shall fully consider and review the report, together with any written submissions or rebuttals and any relevant portions of the examiner's workpapers and enter an order: (A) Adopting the examination report as filed or with modification or corrections. If the examination report reveals that the entity is operating in violation of any law, regulation or prior order of the commissioner, the commissioner may order the company to take any action the commissioner considers necessary and appropriate to cure such violation; (B) rejecting the examination report with directions to the examiners to reopen the examination for purposes of obtaining additional data, documentation or information, and refile pursuant to this subdivision; or (C) calling for an investigatory hearing with not less than twenty days' notice to the company for purposes of obtaining additional documentation, data, information and testimony.

(4) (A) The commissioner shall transmit the examination report adopted pursuant to subparagraph (A) of subdivision (3) of this subsection or a summary thereof to the entity examined, together with any recommendations or written statements from the commissioner or the examiner. The secretary of the board of directors or similar governing body of the entity shall provide a copy of the report or summary to each director and shall certify to the commissioner, in writing, that a copy of the report or summary has been provided to each director.

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(B) Not later than one hundred twenty days after receiving the report or summary, the chief executive officer or the chief financial officer of the entity examined shall present the report or summary to the entity's board of directors or similar governing body at a regular or special meeting.

Sec. 2. Subsection (e) of section 38a-53 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2015*):

(e) Any insurance company or health care center doing business in this state that fails to file any report or statement required under this section shall pay a late filing fee of one hundred seventy-five dollars per day for each day from the due date of such report or statement to the date of filing. The commissioner may extend the due date of any report or statement required under this section (1) if the insurance company or health care center cannot file such report or statement because the governor of such company's or center's state of domicile has proclaimed a state of emergency in such state and such state of emergency impairs the company's or center's ability to file the report or statement, (2) if the insurance regulatory official of the state of domicile of a foreign insurance company has permitted such company to file such report or statement late, or (3) for a domestic insurance company or health care center, for good cause shown.

Sec. 3. Section 38a-69a of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2015*):

(a) All financial analyses, financial examination workpapers, operating and financial condition reports concerning any insurance company, fraternal benefit society or health care center prepared by or on behalf of or for the use of the Insurance Commissioner or the Insurance Department examiner, shall be confidential, [unless such documents are otherwise a matter of public record, or the

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commissioner, in the commissioner's opinion deems it in the public interest to disclose or otherwise make available for public inspection the information contained in such documents] shall not be subject to subpoena and shall not be made public by the commissioner or any other person, except to the extent provided in subsection (c) of this section. The commissioner may grant access to such analyses, workpapers and reports to the National Association of Insurance Commissioners, provided it agrees, in writing, to hold such analyses, workpapers and reports confidential.

(b) Any supplemental compensation exhibit or stockholder information supplement in an annual report filed with the commissioner and prepared in accordance with the National Association of Insurance Commissioners Annual Statement Instructions shall be confidential and shall not be available for public inspection if submitted by a nonprofit insurance company that has fewer than one hundred fifty employees. The provisions of this subsection shall not apply to information in such exhibit or supplement concerning such company's three most highly compensated officers.

(c) Nothing contained in this section shall prevent or be construed as prohibiting the commissioner from disclosing the content of financial analyses, financial examination workpapers or operating and financial condition reports or any matter relating thereto, to the Insurance Department of this or any other state or country, or to law enforcement officials of this or any other state or to any agency of the federal government at any time, so long as such department, official or agency receiving the analyses, workpapers or reports or matters relating thereto agrees, in writing, to hold such analyses, workpapers or reports and matters relating thereto confidential.

Sec. 4. Subparagraph (A) of subdivision (3) of subsection (e) of section 38a-85 of the general statutes is repealed and the following is

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substituted in lieu thereof (*Effective July 1, 2015*):

(3) (A) (i) In the case of a single assuming insurer, the trust shall consist of a trustee account with funds in an amount not less than the assuming insurer's liabilities attributable to reinsurance ceded by domestic and foreign ceding insurers and, unless otherwise provided in subparagraph (A)(ii) of this subdivision, the assuming insurer shall maintain a trustee surplus of not less than twenty million dollars.

(ii) (I) The insurance regulatory official with principal oversight of the trust may authorize a reduction in the required trustee surplus.

~~[(ii)]~~ (II) For a trust over which the commissioner has principal regulatory oversight, at any time after the assuming insurer has permanently discontinued for at least three full years underwriting new business secured by the trust, the commissioner may authorize a reduction in the required trustee surplus. Such reduction shall be made only after the commissioner finds, based on a risk assessment, that the reduced surplus level is adequate to protect domestic and foreign policyholders and ceding insurers and claimants in light of reasonably foreseeable adverse loss development. The risk assessment may involve an actuarial review, including an independent analysis of reserves and cash flows, and shall consider all material risk factors, including, when applicable, the lines of business involved, the stability of the incurred loss estimates and the effect of the surplus requirements on the assuming insurer's liquidity or solvency. The minimum required surplus shall not be reduced to an amount less than thirty per cent of the assuming insurer's liabilities attributable to reinsurance ceded by domestic and foreign ceding insurers covered by the trust.

Sec. 5. Subdivision (3) of subsection (b) of section 38a-129 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2015*):

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(3) "Control", "controlled by" or "under common control with" has the same meaning as provided in section 38a-1; [. Control shall be presumed to exist if any person, directly or indirectly, owns, controls, holds with the power to vote, or holds proxies representing, ten per cent or more of the voting securities of any other person. This presumption may be rebutted by a showing that control does not exist in fact. The commissioner may determine, after furnishing all persons in interest notice and opportunity to be heard and making specific findings of fact to support the determination, that control exists in fact, notwithstanding the absence of a presumption to that effect;]

Sec. 6. (NEW) (*Effective July 1, 2015*) (a) For the purposes of sections 38a-129 to 38a-140, inclusive, of the general statutes, as amended by this act, control shall be presumed to exist if any person, directly or indirectly, owns, controls, holds with the power to vote, or holds proxies representing, ten per cent or more of the voting securities of any other person. This presumption may be rebutted by a showing that control does not exist in fact.

(b) The commissioner may determine, after furnishing all persons in interest notice and opportunity to be heard, that a person, directly or indirectly, alone or pursuant to an oral or a written agreement, arrangement or understanding with one or more other persons, exercises such influence over the management or policies of an insurance company that it is necessary or in the public interest for the protection of such company's policyholders that such person or persons be deemed to control such company. The commissioner shall make specific findings of fact to support the determination that control exists in fact, notwithstanding the absence of a presumption to that effect.

Sec. 7. Subparagraph (A) of subdivision (2) of subsection (a) of section 38a-130 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2015*):

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(2) (A) (i) No person shall enter into an agreement, arrangement or understanding, whether written or oral, to merge with or otherwise acquire control of a domestic insurance company or any corporation controlling a domestic insurance company unless, at the time any form of initial offer, request or invitation is made or the agreement, arrangement or understanding is entered into, or prior to the acquisition of such securities or proxies if no offer, [or] agreement, arrangement or understanding is involved, such person has filed with the commissioner and has sent to such insurance company a statement containing the information required by subsection (b) of this section and such offer, request, invitation, agreement, arrangement, understanding or acquisition has been approved by the commissioner in the manner hereinafter prescribed.

(ii) If any offer, request, invitation, agreement or acquisition is proposed to be made by means of a registration statement under the Securities Act of 1933 or in circumstances requiring the disclosure of similar information under the Securities Exchange Act of 1934, the person required to file the statement under subparagraph (A)(i) of this subdivision may utilize the registration statement or such documents furnishing the similar information to provide the information required by subsection (b) of this section, to the extent that the registration statement or such documents contains such information.

Sec. 8. Subdivision (1) of subsection (b) of section 38a-136 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2015*):

(b) (1) The following transactions involving a domestic insurance company and any person in its holding company system, including amendments to or modifications of affiliate agreements previously filed pursuant to this section and that are subject to any materiality standards specified in subparagraphs (A) to (G), inclusive, of this subdivision, may not be entered into unless the insurance company

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has notified the commissioner in writing of its intention to enter into such transaction at least thirty days prior thereto, or such shorter period as the commissioner may permit, and the commissioner has approved or not disapproved it within such period. The written notice for such amendments or modifications shall specify the reasons for the change and the financial impact on the domestic insurance company. Not later than thirty days after the termination of a previously filed agreement, the domestic insurance company shall notify the commissioner of such termination for the commissioner's determination of what written notice or filing shall be required, if any:

(A) Sales, purchases, exchanges, loans or extensions of credit, or investments, provided such transactions are equal to or exceed: (i) With respect to nonlife insurance companies, the lesser of three per cent of the insurance company's admitted assets or twenty-five per cent of surplus; or (ii) with respect to life insurance companies, three per cent of the insurance company's admitted assets; each as of the thirty-first day of December next preceding;

(B) Loans or extensions of credit to any person who is not an affiliate, where the insurance company makes such loans or extensions of credit with the agreement or understanding that the proceeds of such transactions, in whole or in substantial part, are to be used to make loans or extensions of credit to, to purchase assets of, or to make investments in, any affiliate of the insurance company making such loans or extensions of credit, provided such transactions are equal to or exceed: (i) With respect to nonlife insurance companies, the lesser of three per cent of the insurance company's admitted assets or twenty-five per cent of surplus; or (ii) with respect to life insurance companies, three per cent of the insurance company's admitted assets; each as of the thirty-first day of December next preceding;

(C) Reinsurance agreements or modifications thereto, including (i) all reinsurance pooling agreements, and (ii) agreements in which the

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reinsurance premium or a change in the insurance company's liabilities, or the projected reinsurance premium or a projected change in the insurance company's liabilities in any of the next three years, equals or exceeds five per cent of the insurance company's surplus, as of the thirty-first day of December next preceding, including those agreements that may require as consideration the transfer of assets from an insurance company to a nonaffiliate, if an agreement or understanding exists between the insurance company and nonaffiliate that any portion of such assets will be transferred to one or more affiliates of the insurance company;

(D) All management agreements, service contracts, tax allocation agreements and cost-sharing arrangements;

(E) Guarantees by a domestic insurance company, except that a guarantee that is (i) quantifiable as to amount, and (ii) does not exceed the lesser of one-half of one per cent of the insurance company's admitted assets or ten per cent of surplus with regard to policyholders, as of the thirty-first day of December next preceding, shall not be subject to the notice requirement of this subsection;

(F) Direct or indirect acquisitions or investments in a person that controls the domestic insurance company or in an affiliate of the insurance company in an amount that, together with the insurance company's present holdings in such investments, exceeds two and one-half per cent of the insurance company's surplus with regard to policyholders. This subsection shall not apply to direct or indirect acquisitions of or investments in (i) subsidiaries acquired pursuant to section 38a-102d or authorized pursuant to any section of this title other than sections 38a-129 to 38a-140, inclusive, as amended by this act, or (ii) nonsubsidiary affiliates that are subject to the provisions of sections 38a-129 to 38a-140, inclusive, as amended by this act; and

(G) Any material transactions, specified by regulation, that the

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commissioner determines may adversely affect the interests of the insurance company's policyholders.

Sec. 9. Section 38a-188 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2015*):

Each health care center governed by sections 38a-175 to 38a-192, inclusive, shall be exempt from the provisions of the general statutes relating to insurance in the conduct of its operations under said sections and in such other activities as do constitute the business of insurance, unless expressly included therein, and except for the following: Sections 38a-11, 38a-14a, 38a-17, 38a-51, 38a-52, 38a-56, 38a-57, 38a-129 to 38a-140, inclusive, as amended by this act, 38a-147 and 38a-815 to 38a-819, inclusive, provided a health care center shall not be deemed in violation of sections 38a-815 to 38a-819, inclusive, solely by virtue of such center selectively contracting with certain providers in one or more specialties, and sections 38a-80, 38a-492b, 38a-518b, 38a-543, 38a-702j, 38a-703 to 38a-718, inclusive, 38a-731 to 38a-735, inclusive, 38a-741 to 38a-745, inclusive, 38a-769, 38a-770, 38a-772 to 38a-776, inclusive, 38a-786, 38a-790, 38a-792 and 38a-794, provided a health care center organized as a nonprofit, nonstock corporation shall be exempt from sections 38a-146, 38a-702j, 38a-703 to 38a-718, inclusive, 38a-731 to 38a-735, inclusive, 38a-741 to 38a-745, inclusive, 38a-769, 38a-770, 38a-772 to 38a-776, inclusive, 38a-786, 38a-790, 38a-792 and 38a-794. If a health care center is operated as a line of business, the foregoing provisions shall, where possible, be applied only to that line of business and not to the organization as a whole. The commissioner may adopt regulations, in accordance with chapter 54, stating the circumstances under which the resources of a person which controls a health care center, or operates a health care center as a line of business will be considered in evaluating the financial condition of a health care center. Such regulations, if adopted, shall require as a condition to the consideration of the resources of such person [which]

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that controls a health care center, or operates a health care center as a line of business to provide satisfactory assurances to the commissioner that such person will assume the financial obligations of the health care center. During the period prior to the effective date of regulations issued under this section, the commissioner shall, upon request, consider the resources of a person [which] that controls a health care center, or operates a health care center as a line of business, if the commissioner receives satisfactory assurances from such person that it will assume the financial obligations of the health care center and determines that such person meets such other requirements as the commissioner determines are necessary. A health care center organized as a nonprofit, nonstock corporation shall be exempt from the sales and use tax and all property of each such corporation shall be exempt from state, district and municipal taxes. Each corporation governed by sections 38a-175 to 38a-192, inclusive, shall be subject to the provisions of sections 38a-903 to 38a-961, inclusive. Nothing in this section shall be construed to override contractual and delivery system arrangements governing a health care center's provider relationships.

Approved June 23, 2015